

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of License 407,)
Issued Pursuant to Permit 1230,)
Application 2928,)
F. MILTON BRANDT ET AL.,)
Licensee.)

Source: Russian River
County: Sonoma

ORDER REVOKING IN PART LICENSE
FOR DIVERSION AND USE OF WATER

Requests for revocation of License 407 having been received from owners of part interests thereof, an investigation having been made, the owner of the remaining interest having requested amendment of the license in accordance with this order, and the State Water Rights Board having duly considered all available information and now being fully informed in the premises, finds as follows:

1. Permit 1230 was issued in the matter of Application 2928 on November 29, 1922, to F. J. Brandt, E. Bachman, and C. B. Cole for the appropriation of 0.81 cubic foot per second (cfs) between May 15 and October 15 each year from the Russian River in Sonoma County for irrigation use.
2. License 407 was issued on December 2, 1925, pursuant to said permit, confirming the right to 0.79 cfs acquired by beneficial use by F. J. Brandt on 20.22 acres, by E. Bachman on 25.53 acres, and by C. B. Cole on 17.25 acres. Said license was filed in the office of the Recorder of Sonoma County on December 18, 1925.

3. Subsequently, the interest of E. Bachman vested in Julia and Joseph Gagliardo and that of C. B. Cole vested in Milda Soracco, all of whom have ceased to use water under said license and have requested revocation of their respective interests in the subject license.

4. The interest of F. J. Brandt is vested in F. Milton Brandt and Mary Patricia Brandt. By order of February 4, 1960, permission was granted to change the point of diversion. Beneficial use is being made of 0.06 cfs for irrigation purposes upon 6.5 acres of land pursuant to said license.

5. Except for 0.06 cfs, water has ceased to be appropriated and put to beneficial use within the terms and authority of said License 407.

It is concluded from the foregoing findings that License 407 should be revoked in part.

NOW, THEREFORE, IT IS ORDERED as follows:

The respective interests of Julia and Joseph Gagliardo and of Milda Soracco in and to License 407 and all rights to the use of water thereunder in excess of 0.06 cfs are revoked.

There is confirmed in F. Milton Brandt and Mary Patricia Brandt of 225 Bailhache Avenue, Healdsburg, California, as of October 14, 1958 (the date of inspection), a right to the use of water, not to exceed six hundredths (0.06) cubic foot per second, of Russian River (underflow) in Sonoma County, tributary to Pacific Ocean, to be diverted from about May 15 to about October 15 of each year, for irrigation, with priority of right from July 14, 1922.

The equivalent of such continuous flow allowance for any thirty-day period may be diverted in a shorter time if there be no interference with other vested rights.

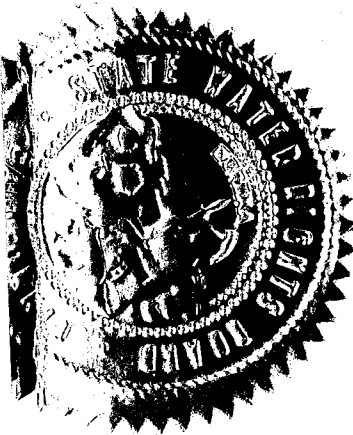
The point of diversion of such water is:

South forty (40) feet and west two hundred forty-eight (248) feet from SE corner of SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 22, T9N, R9W, MDB&M, being within NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 27, T9N, R9W, MDB&M.

The lands where such water is put to beneficial use are described as follows:

6.5 acres within NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 27, T9N, R9W, MDB&M.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, this 16th day of May, 1960.



Kent Silverthorne
Kent Silverthorne, Chairman

W. P. Rowe
W. P. Rowe, Member

Ralph J. McGill
Ralph J. McGill, Member

STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

ORDER

TION 2928

PERMIT 1230

LICENSE 407

ORDER ALLOWING CHANGE IN POINT OF DIVERSION

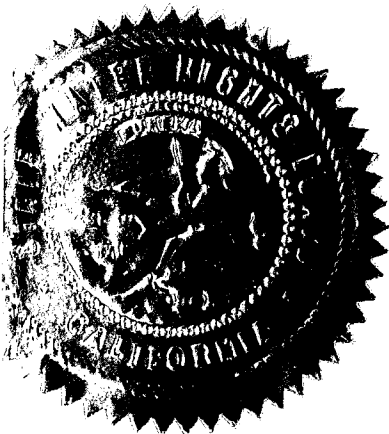
Licensee having established to the satisfaction of the State Water Rights Board that the change in point of diversion under Application 2928, Permit 1230, License 407, for which petition was submitted on May 5, 1959 will not operate to the injury of any other legal user of water, the Board so finds, and

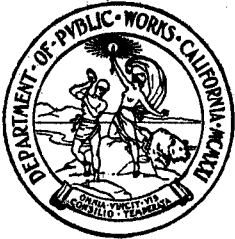
IT IS ORDERED that permission be and the same is hereby granted to change the point of diversion under said Application 2928, Permit 1230, License 407, to point of diversion described as follows, to wit:

SOUTH 40 FEET AND WEST 248 FEET FROM SE CORNER OF SW $\frac{1}{4}$ OF SW $\frac{1}{4}$ OF PROJECTED SECTION 22, T9N, R9W, MDB&M, BEING WITHIN NW $\frac{1}{4}$ OF NW $\frac{1}{4}$ OF PROJECTED SECTION 27, T9N, R9W, MDB&M.

WITNESS my hand and the seal of the State Water Rights Board of the State of California this 4th day of February, 1960

L. K. Hill
L. K. Hill
Executive Officer





STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

LICENSE No. 407

PERMIT No. 1230
ASSIGNMENT MADE

APPLICATION No. 2928

This is to Certify, That F. J. Brandt, E. Bachman, O. B. Cole,

of Healdsburg, California

have made proof to the satisfaction of the Division of Water Rights of California of a right to the use of the waters of Russian River, in Sonoma County,

tributary of Pacific Ocean

for the purpose of agricultural use

under Permit No. 1230 of the Division of Water Rights and that said right to the use of said waters has been perfected in accordance with the laws of California, the rules and regulations of the Division of Water Rights and the terms of the said permit; that the priority of the right herein confirmed dates from July 14th, 1922;

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to the amount actually beneficially used for said purposes and shall not exceed seventy-nine hundredths (0.79) cubic foot per second from about May 15th to October 15th of each season. Diversions under this license, which are to be directly applied to irrigation use without storage, shall not exceed the rate of one cubic foot per second continuous flow to each eighty acres of irrigated land; provided, however, that in case of rotation the equivalent of such continuous flow allowance for any thirty day period may be diverted in a shorter time if there be no interference with other vested rights.

The point of diversion of such water is located North seventy-three degrees fifteen minutes West (N73° 15' W), four hundred twenty and forty-two hundredths (420.42) feet from the northeast corner of the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 27, T 9 N, R 9 W. M.D.M., being within the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 22, T 9 N, R 9 W. M.D.M.

A description of the lands or the place where such water is put to beneficial use is as follows:

65.0 Acres within the Sotoyome Rancho as shown on map filed August 17th, 1922 with the Division of Water Rights, being the lands of

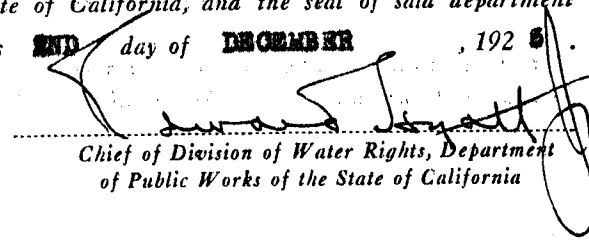
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| <u>F. J. Brandt</u> | <u>20.22 Acres within the S$\frac{1}{4}$ of SW$\frac{1}{4}$ of projected Section 22, and the E$\frac{1}{2}$ of NW$\frac{1}{4}$ of projected Section 27</u> |
| <u>E. Bachman</u> | <u>25.25 Acres within the E$\frac{1}{2}$ of NW$\frac{1}{4}$ and NW$\frac{1}{4}$ of NW$\frac{1}{4}$ of projected Section 27,</u> |
| <u>O. B. Cole</u> | <u>17.25 Acres within the E$\frac{1}{2}$ of NW$\frac{1}{4}$ and W$\frac{1}{2}$ of NW$\frac{1}{4}$ of projected Section 27.</u> |
| <u>65.00 Acres all within T 9 N, R 9 W. M.D.M.</u> | |

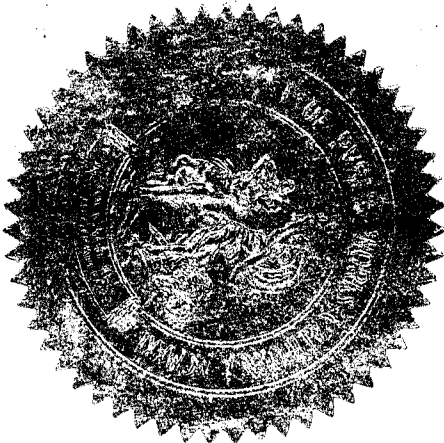
The right to the diversion and use of the water aforesaid hereby confirmed is restricted to the point of diversion herein specified and to the lands or place of use herein described.

This license is granted and said appropriator takes all rights herein mentioned subject to the terms and conditions set forth in Section 20 of Chapter 586, Statutes 1913, which is as follows:

Sec. 20. All permits and licenses for the appropriation of water shall be under the terms and conditions of this act, and shall be effective for such time as the water actually appropriated under such permits and licenses shall actually be used for the useful and beneficial purpose for which said water was appropriated, but no longer; and every such permit or license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this section and likewise the statement that any appropriator of water, to whom said permit or license may be issued, shall take the same subject to such conditions as therein expressed; *provided*, that if, at any time after the expiration of twenty years after the granting of a license, the state, or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the state shall have the right to purchase the works and property occupied and used under said license and the works built or constructed for the enjoyment of the rights granted under said license; and in the event that the said state, city, city and county, municipal water district, irrigation district, lighting district or political subdivision of the state so desiring to purchase and the said owner of said works and property can not agree upon said purchase price, said price shall be determined in such manner as is now or may hereafter be determined in eminent domain proceedings. If it shall appear to the state water commission at any time after a permit or license is issued as in this act provided that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has not put the water granted under said permit or license to the useful or beneficial purpose for which the permit or license was granted, or that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has ceased to put said water to such useful or beneficial purpose, or that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee has failed to observe any of the terms and conditions in the permit or license as issued, then and in that case the said commission, after due notice to the permittee, licensee, or the heirs, successors or assigns of such permittee or licensee, and a hearing thereon, may revoke said permit or license, and declare the water to be unappropriated and open to further appropriation in accordance with the terms of this act. And the findings and declaration of said commission shall be deemed to be prima facie correct until modified or set aside by a court of competent jurisdiction; *provided*, that any action brought so to modify or set aside such finding or declaration must be commenced within thirty days after the service of notice of said revocation on said permittee or licensee, his heirs, successors or assigns. And every licensee or permittee under the provisions of this act if he accept such permit or license shall accept the same under the conditions precedent that no value whatsoever in excess of the actual amount paid to the state therefor shall at any time be assigned to or claimed for any permit or license granted or issued under the provisions of this act, or for any rights granted or acquired under the provisions of this act, in respect to the regulations by any competent public authority of the services or the price of the services to be rendered by any permittee or licensee, his heirs, successors or assigns or by the holder of any rights granted or acquired under the provisions of this act, or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the state or any city, city and county, municipal water district, irrigation district, lighting district or any political subdivision of the state, of the rights and property of any permittee or licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this act. The application for a permit by municipalities for the use of water for said municipalities or the inhabitants thereof for domestic purposes shall be considered first in right, irrespective of whether they are first in time; *provided*, however, that such application for a permit or the granting thereafter of permission to any municipality to appropriate waters, shall not authorize the appropriation of any water for other than municipal purposes; and *providing*, further, that where permission to appropriate is granted by the state water commission to any municipality for any quantity of water in excess of the existing municipal needs thereof, that pending the application of the entire appropriation permitted, the state water commission shall have the power to issue permits for the temporary appropriation of the excess of such permitted appropriation over and above the quantity being applied from time to time by such municipality; and *providing*, further, that in lieu of the granting of such temporary permits for appropriation, the state water commission may authorize such municipality to become as to such surplus a public utility, subject to the jurisdiction and control of the railroad commission of the State of California for such period or periods from and after the date of the issuance of such permission to appropriate, as may be allowed for the application to municipal uses of the entire appropriation permitted; and *providing*, further, that when such municipality shall desire to use the additional water granted in its said application it may do so upon making just compensation for the facilities for taking, conveying and storing such additional water rendered valueless for said purposes, to the person, firm or corporation which constructed said facilities for the temporary use of said excess waters, and which compensation, if not agreed upon between the municipality and said person, firm or corporation, may be determined in the manner provided by law for determining the value of property taken by and through eminent domain proceedings.

Witness the signature of the Chief of the Division of
WATER RIGHTS, Department of Public Works of the
State of California, and the seal of said department
this 2ND day of DECEMBER, 1928.


Chief of Division of Water Rights, Department
of Public Works of the State of California



6/20/49

RECEIVED NOTICE OF ASSIGNMENT

to J. B. Cole to
Addie E. Cole

10/14/58

RECEIVED NOTICE OF ASSIGNMENT TO

J. Milton Brandt

5/14/60

RECEIVED NOTICE OF ASSIGNMENT TO

Partial
of

Mary Patricia Brandt

LICENSE NO.

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS

DIVISION OF WATER RIGHTS

LICENSE
TO APPROPRIATE WATER

ISSUED TO

DATED